

By: Harris

S.B. No. 231

A BILL TO BE ENTITLED

AN ACT

relating to child support enforcement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 105.006(g), Family Code, is amended to read as follows:

(g) The Title IV-D agency shall promulgate and provide forms for a party to use in reporting to the court and~~[, when established, to]~~ the state case registry under Chapter 234 the information required under this section.

SECTION 2. Section 108.001, Family Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by this chapter, the clerk of the court shall transmit to the bureau of vital statistics a certified record of the order rendered in a suit, together with the name and all prior names, birth date, and place of birth of the child ~~[prepared by the petitioner]~~ on a form provided by the bureau. The form shall be completed by the petitioner and submitted to the clerk at the time the order is filed for record.

(d) In a Title IV-D case, the Title IV-D agency may transmit the record and information specified by Subsection (a) to the bureau of vital statistics, with a copy to the clerk of the court on request by the clerk. The record and information are not required to be certified if transmitted by the Title IV-D agency under this

1 subsection.

2 SECTION 3. Section 108.004, Family Code, is amended to read  
3 as follows:

4 Sec. 108.004. TRANSMITTAL OF FILES ON LOSS OF JURISDICTION.  
5 On the loss of jurisdiction of a court under Chapter 155, 159, or  
6 262, the clerk of the court shall transmit to the central registry  
7 of the bureau of vital statistics a certified record, on a form  
8 provided by the bureau, stating that jurisdiction has been lost,  
9 the reason for the loss of jurisdiction, and the name and all  
10 previous names, date of birth, and place of birth of the child.

11 SECTION 4. Sections 154.186(a) and (b), Family Code, are  
12 amended to read as follows:

13 (a) The obligee, obligor, or a child support agency of this  
14 state or another state may send to the employer a copy of the order  
15 requiring an employee to provide health insurance coverage for a  
16 child or may include notice of the medical support order in an order  
17 or writ of withholding sent to the employer in accordance with  
18 Chapter 158.

19 (b) In an appropriate Title IV-D case, the Title IV-D agency  
20 of this state or another state shall send to the employer the  
21 national medical support notice required under Part D, Title IV of  
22 the federal Social Security Act (42 U.S.C. Section 651 et seq.), as  
23 amended. The notice may be used in any other suit in which an  
24 obligor is ordered to provide health insurance coverage for a  
25 child.

26 SECTION 5. Section 155.101(a), Family Code, is amended to  
27 read as follows:

1           (a) Before the rendition of a final order, the [The]  
2 petitioner or the court must [~~shall~~] request from the bureau of  
3 vital statistics identification of the court that last had  
4 continuing, exclusive jurisdiction of the child in a suit [~~unless:~~

5           [~~(1) the petition alleges that no court has~~  
6 ~~continuing, exclusive jurisdiction of the child and the issue is~~  
7 ~~not disputed by the pleadings; or~~

8           [~~(2) the petition alleges that the court in which the~~  
9 ~~suit or petition to modify has been filed has acquired and retains~~  
10 ~~continuing, exclusive jurisdiction of the child as the result of a~~  
11 ~~prior proceeding and the issue is not disputed by the pleadings].~~

12           SECTION 6. Section 155.103(a), Family Code, is amended to  
13 read as follows:

14           (a) A court shall have jurisdiction over a suit if it has  
15 been, correctly or incorrectly, informed by the bureau of vital  
16 statistics that the child has not been the subject of another [a]  
17 suit [~~and the petition states that no other court has continuing,~~  
18 ~~exclusive jurisdiction over the child].~~

19           SECTION 7. Section 155.104, Family Code, is amended to read  
20 as follows:

21           Sec. 155.104. VOID [VOIDABLE] ORDER. (a) A [~~If a request~~  
22 ~~for information from the bureau of vital statistics relating to the~~  
23 ~~identity of the court having continuing, exclusive jurisdiction of~~  
24 ~~the child has been made under this subchapter, a]~~ final order,  
25 except an order of dismissal, may not be rendered until the  
26 information from the bureau of vital statistics relating to the  
27 identity of the court having continuing, exclusive jurisdiction of

1 the child is filed with the court.

2 (b) If a final order is rendered in the absence of the filing  
3 of the information from the bureau of vital statistics, the order is  
4 void [~~voidable on a showing that a court other than the court that~~  
5 ~~rendered the order had continuing, exclusive jurisdiction~~].

6 SECTION 8. Section 157.066, Family Code, is amended to read  
7 as follows:

8 Sec. 157.066. FAILURE TO APPEAR. (a) If a respondent who  
9 has been personally served with notice to appear at a hearing does  
10 not appear at the designated time, place, and date to respond to a  
11 motion for enforcement of an existing court order, regardless of  
12 whether the motion is joined with other claims or remedies, the  
13 court may not hold the respondent in contempt but may, on proper  
14 proof, grant a default judgment for the relief sought and may, in a  
15 case other than a Title IV-D case, issue a capias for the arrest of  
16 the respondent.

17 (b) Under the circumstances described by Subsection (a),  
18 the court in a Title IV-D case shall issue a capias for the arrest of  
19 the respondent on the request of the Title IV-D agency.

20 SECTION 9. Section 157.102, Family Code, is amended to read  
21 as follows:

22 Sec. 157.102. CAPIAS OR WARRANT; DUTY OF LAW ENFORCEMENT  
23 OFFICIALS. Law enforcement officials shall treat a [~~the~~] capias or  
24 arrest warrant ordered under this chapter in the same manner as an  
25 arrest warrant for a criminal offense and shall enter the capias or  
26 warrant in the computer records for outstanding warrants maintained  
27 by the local police, sheriff, and Department of Public Safety. The

1   capias or warrant shall be forwarded to and disseminated by the  
2   Texas Crime Information Center and the National Crime Information  
3   Center.

4           SECTION 10. Section 157.114, Family Code, is amended to  
5   read as follows:

6           Sec. 157.114. FAILURE TO APPEAR. (a) The court may order a  
7   capias to be issued for the arrest of the respondent in a case other  
8   than a Title IV-D case if:

9                   (1) the motion for enforcement requests contempt;

10                   (2) the respondent was personally served; and

11                   (3) the respondent fails to appear.

12           (b) The court shall order the issuance of a capias under  
13   this section for the arrest of the respondent in a Title IV-D case  
14   on the request of the Title IV-D agency if the requirements of  
15   Subsections (a)(1)-(3) are met.

16           SECTION 11. Section 157.115, Family Code, is amended by  
17   amending Subsection (b) and adding Subsection (c) to read as  
18   follows:

19           (b) If the respondent fails to appear, the court may not  
20   hold the respondent in contempt but may, in a case other than a  
21   Title IV-D case, order a capias to be issued.

22           (c) If the respondent fails to appear in a Title IV-D case,  
23   the court shall order a capias to be issued on the request of the  
24   Title IV-D agency.

25           SECTION 12. Section 157.268, Family Code, is amended to  
26   read as follows:

27           Sec. 157.268. APPLICATION OF CHILD SUPPORT PAYMENT. Child

support collected shall be applied in the following order of priority:

- (1) current child support;
- (2) non-delinquent child support owed;
- (3) interest on the principal amounts specified in Subdivisions (4) and (5);
- (4) the principal amount of child support that has not been confirmed and reduced to money judgment;
- (5) the principal amount of child support that has been confirmed and reduced to money judgment; and
- (6) the amount of any ordered attorney's fees or costs, or Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible.

SECTION 13. Section 157.318(a), Family Code, is amended to read as follows:

(a) A lien is effective until all current support and child support arrearages, including interest, ~~and~~ any costs and reasonable attorney's fees, and any Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid or the lien is otherwise released as provided by this subchapter.

SECTION 14. Section 157.324, Family Code, is amended to read as follows:

Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR LIEN. A person who knowingly disposes of property subject to a child support lien or ~~or~~ who, after a foreclosure hearing, fails to surrender on demand nonexempt personal property as directed by a

1 court [~~or administrative order~~] under this subchapter[~~, or who~~  
 2 ~~fails to comply with a notice of levy under this subchapter~~] is  
 3 liable to the claimant in an amount equal to the arrearages for  
 4 which the lien[~~, notice of levy,~~] or foreclosure judgment was  
 5 issued.

6 SECTION 15. Section 157.327, Family Code, is amended by  
 7 amending Subsection (b) and adding Subsection (f) to read as  
 8 follows:

9 (b) The notice under this section must:

10 (1) identify the amount of child support arrearages  
 11 owing at the time the amount of arrearages was determined or, if the  
 12 amount is less, the amount of arrearages owing at the time the  
 13 notice is prepared and delivered to the financial institution; and

14 (2) direct the financial institution to pay to the  
 15 claimant, not earlier than the 15th day or later than the 21st day  
 16 after the date of delivery of the notice, an amount from the assets  
 17 of the obligor or from funds due to the obligor that are held or  
 18 controlled by the institution, not to exceed the amount of the child  
 19 support arrearages identified in the notice, unless:

20 (A) the institution is notified by the claimant  
 21 that the obligor has paid the arrearages or made arrangements  
 22 satisfactory to the claimant for the payment of the arrearages;

23 (B) the obligor or another person files a suit  
 24 under Section 157.323 requesting a hearing by the court; or

25 (C) if the claimant is the Title IV-D agency, the  
 26 obligor has requested an agency review under Section 157.328.

27 (f) A financial institution may deduct the fees and costs

1 identified in Subsection (c) from the obligor's assets before  
2 paying the appropriate amount to the claimant.

3 SECTION 16. Section 157.330, Family Code, is amended to  
4 read as follows:

5 Sec. 157.330. FAILURE TO COMPLY WITH NOTICE OF LEVY. (a) A  
6 person who possesses or has a right to property that is the subject  
7 of a notice of levy delivered to the person and who refuses to  
8 surrender the property or right to property to the claimant on  
9 demand is liable to the claimant in an amount equal to the value of  
10 the property or right to property not surrendered but that does not  
11 exceed the amount of the child support arrearages for which the  
12 notice of levy has been filed.

13 (b) A claimant may recover costs and reasonable attorney's  
14 fees incurred in an action under this section.

15 SECTION 17. Subchapter C, Chapter 158, Family Code, is  
16 amended by adding Section 158.214 to read as follows:

17 Sec. 158.214. WITHHOLDING FROM LUMP-SUM PAYMENTS. (a) In  
18 this section, "lump-sum payment" means income in the form of a bonus  
19 or commission or an amount paid in lieu of vacation or other leave  
20 time. The term does not include an employee's usual earnings or an  
21 amount paid as severance pay on termination of employment.

22 (b) This section applies only to an employer who receives an  
23 administrative writ of withholding in a Title IV-D case that  
24 requires that an obligor's income be withheld for child support  
25 arrearages.

26 (c) An employer to whom this section applies may not make a  
27 lump-sum payment to the obligor in the amount of \$500 or more



1 without first notifying the Title IV-D agency that issued the writ  
2 to determine whether all or a portion of the payment should be  
3 applied to the child support arrearages.

4 (d) After notifying the Title IV-D agency in compliance with  
5 Subsection (c), the employer may not make the lump-sum payment  
6 before the earlier of:

7 (1) the 30th day after the date on which the employer  
8 notified the Title IV-D agency; or

9 (2) the date on which the employer receives  
10 authorization from the Title IV-D agency to make the payment.

11 (e) If the employer receives a timely authorization from the  
12 Title IV-D agency under Subsection (d)(2), the employer may make  
13 the payment only in accordance with the terms of that  
14 authorization.

15 SECTION 18. Section 158.502(a), Family Code, is amended to  
16 read as follows:

17 (a) An administrative writ of withholding under this  
18 subchapter may be issued by the Title IV-D agency at any time until  
19 all current support, including medical support, and child support  
20 arrearages, and Title IV-D service fees authorized under Section  
21 231.103 for which the obligor is responsible, have been paid. The  
22 writ issued under this subsection may be based on an obligation in  
23 more than one support order.

24 SECTION 19. Section 158.503(b), Family Code, is amended to  
25 read as follows:

26 (b) Except in a Title IV-D case, not ~~[Not]~~ later than the  
27 third business day after the date of delivery of the administrative

1 writ of withholding to an employer, the entity issuing the writ  
2 ~~[Title IV-D agency]~~ shall file a copy of the writ, together with a  
3 signed certificate of service, in the court of continuing  
4 jurisdiction. The certificate of service may be signed  
5 electronically. This subsection does not apply to the enforcement  
6 under Section 158.501(c) of a support order rendered by a tribunal  
7 of another state.

8 SECTION 20. Section 158.506, Family Code, is amended by  
9 amending Subsection (c) and adding Subsection (d) to read as  
10 follows:

11 (c) If a review under this section fails to resolve any  
12 issue in dispute, the obligor ~~[is entitled to the remedies provided~~  
13 ~~by Section 158.317 for cases in which a notice of an application for~~  
14 ~~judicial writ of withholding was not received. The obligor]~~ may  
15 file a motion with the court to withdraw the administrative writ of  
16 withholding and request a hearing with the court not later than the  
17 30th day after receiving notice of the agency's determination.  
18 Income withholding may not be interrupted pending a hearing by the  
19 court. The court may not withdraw an administrative writ of  
20 withholding without a showing by the obligor that the obligor has  
21 exhausted the administrative remedies provided under this section.

22 (d) If an administrative writ of withholding issued under  
23 this subchapter is based on an order of a tribunal of another state  
24 that has not been registered under Chapter 159, the obligor may file  
25 a motion with an appropriate court in accordance with Subsection  
26 (c).

27 SECTION 21. Section 158.507, Family Code, is amended to

read as follows:

Sec. 158.507. ADMINISTRATIVE WRIT TERMINATING WITHHOLDING.  
An administrative writ to terminate withholding may be issued and delivered to an employer by the Title IV-D agency when all current support, including medical support, and child support arrearages, and Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid.

SECTION 22. Section 231.006(b), Family Code, is amended to read as follows:

(b) A child support obligor or business entity ineligible to receive payments under Subsection (a) ~~[or a child support obligor ineligible to receive payments under Subsection (a-1)]~~ remains ineligible until:

(1) all arrearages have been paid;

(2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency;  
or

(3) the court of continuing jurisdiction over the child support order has granted the obligor an exemption from Subsection (a) as part of a court-supervised effort to improve earnings and child support payments.

SECTION 23. The heading to Section 231.012, Family Code, is amended to read as follows:

Sec. 231.012. CHILD SUPPORT ~~[COUNTY ADVISORY]~~ WORK GROUP.

SECTION 24. Sections 231.012(a), (b), and (c), Family Code, are amended to read as follows:

(a) The director of the Title IV-D agency may convene ~~[shall~~

~~establish] a [county advisory] work group representing public and private entities with an interest in child support enforcement in this state to work with [assist] the director [Title IV-D agency] in developing strategies to improve [and changing] child support enforcement in this state [programs that affect counties. The work group shall consist of at least one of each of the following:~~

- ~~[(1) county judge;~~
- ~~[(2) county commissioner;~~
- ~~[(3) district clerk;~~
- ~~[(4) domestic relations officer;~~
- ~~[(5) associate judge for Title IV-D cases; and~~
- ~~[(6) district court judge].~~

(b) The director of the Title IV-D agency shall appoint the members of the work group after consulting with appropriate public and private entities ~~[the relevant professional or trade associations of the professions that are represented on the work group. The director of the Title IV-D agency shall determine the number of members of the work group and shall designate the presiding officer of the group].~~

(c) The work group shall meet as convened by the director of the Title IV-D agency and consult with ~~+~~

~~[(1) advise] the director on matters relating to [of the Title IV-D agency of the impact on counties that a proposed] child support enforcement in this state, including the delivery of Title IV-D services [program or a change in a program may have,~~

~~[(2) establish a state-county child support improvement plan,~~

1           ~~[(3) advise the Title IV-D agency on the operation of~~  
2 ~~the state disbursement unit,~~

3           ~~[(4) plan for monetary incentives for county~~  
4 ~~partnership programs,~~

5           ~~[(5) expand the number of agreements with counties for~~  
6 ~~enforcement services, and~~

7           ~~[(6) work with relevant statewide associations on a~~  
8 ~~model partnership agreement].~~

9           SECTION 25. Section 231.103, Family Code, is amended by  
10 amending Subsections (a) and (f) and adding Subsection (g-1) to  
11 read as follows:

12           (a) The Title IV-D agency may:

13                 (1) charge a reasonable application fee;

14                 (2) charge appropriate ~~[a \$25 annual]~~ service fees  
15 ~~[fee]~~; and

16                 (3) to the extent permitted by federal law, recover  
17 costs for the services provided in a Title IV-D case.

18           (f) The state disbursement unit established and operated by  
19 the Title IV-D agency under Chapter 234 may collect a monthly  
20 service fee of \$3 in each case in which ~~[deducted from]~~ support  
21 payments are processed through the unit ~~[in a case for which the~~  
22 ~~Title IV-D agency is not providing services]~~.

23           (g-1) A fee authorized under this section for providing  
24 child support enforcement services is part of the child support  
25 obligation if the obligor is responsible for the fee, and may be  
26 enforced against the obligor through any method available for the  
27 enforcement of child support, including contempt.

SECTION 26. Section 233.019, Family Code, is amended by adding Subsection (d) to read as follows:

(d) A child support order issued by a tribunal of another state and filed with an agreed review order as an exhibit to the agreed review order shall be treated as a confirmed order without the necessity of registration under Subchapter G, Chapter 159.

SECTION 27. Section 234.008(a), Family Code, is amended to read as follows:

(a) Not ~~[Except as provided by Subsection (c) or (d), not]~~ later than the second business day after the date the state disbursement unit receives a child support payment, the state disbursement unit shall distribute the payment to the Title IV-D agency or the obligee.

SECTION 28. Subchapter A, Chapter 234, Family Code, is amended by adding Section 234.012 to read as follows:

Sec. 234.012. RELEASE OF INFORMATION FROM STATE CASE REGISTRY. Unless prohibited by a court in accordance with Section 105.006(c), the state case registry shall, on request and to the extent permitted by federal law, provide the information required under Sections 105.006 and 105.008 in any case included in the registry under Section 234.001(b) to:

- (1) any party to the proceeding;
- (2) an amicus attorney;
- (3) an attorney ad litem;
- (4) a friend of the court;
- (5) a guardian ad litem;
- (6) a domestic relations office;

1           (7) a prosecuting attorney or juvenile court acting in  
2 a proceeding under Title 3; or

3           (8) a governmental entity or court acting in a  
4 proceeding under Chapter 262.

5           SECTION 29. The following provisions of the Family Code are  
6 repealed:

7                   (1) Sections 231.006(a-1), 231.103(d), and  
8 234.008(c), (d), and (e); and

9                   (2) Chapter 235.

10           SECTION 30. (a) The changes in law made by this Act to  
11 Chapter 155, Family Code, apply only to a suit affecting the  
12 parent-child relationship that is filed on or after the effective  
13 date of this Act. A suit affecting the parent-child relationship  
14 that is filed before the effective date of this Act is governed by  
15 the law in effect on the date the suit was filed, and the former law  
16 is continued in effect for that purpose.

17                   (b) The changes in law made by this Act to Sections 157.066,  
18 157.114, and 157.115, Family Code, apply to a respondent who fails  
19 to appear at a hearing on or after the effective date of this Act,  
20 regardless of the date on which the suit was commenced or the date  
21 on which the respondent was served with notice to appear.

22                   (c) Section 157.327(f), Family Code, as added by this Act,  
23 applies only to a financial institution that receives a notice of  
24 levy under that section on or after the effective date of this Act.  
25 A financial institution that receives a notice of levy under that  
26 section before the effective date of this Act is governed by the law  
27 in effect on the date the notice of levy is received, and the former

1 law is continued in effect for that purpose.

2 (d) The changes in law made by this Act to Section 158.506,  
3 Family Code, apply only to an administrative writ of withholding  
4 issued on or after the effective date of this Act. An  
5 administrative writ of withholding issued before the effective date  
6 of this Act is governed by the law in effect at the time the  
7 administrative writ is issued, and the former law is continued in  
8 effect for that purpose.

9 (e) The changes in law made by this Act to Section 231.103,  
10 Family Code, apply only to fees that are incurred on or after the  
11 date that the rules adopted in accordance with that section take  
12 effect.

13 (f) The changes in law made by this Act relating to a court  
14 order establishing paternity or the obligation to pay child support  
15 apply only to a suit affecting the parent-child relationship filed  
16 on or after the effective date of this Act. A suit affecting the  
17 parent-child relationship filed before the effective date of this  
18 Act is governed by the law in effect on the date the suit was filed,  
19 and the former law is continued in effect for that purpose.

20 (g) The changes in law made by this Act relating to the  
21 modification or enforcement of a child support order rendered  
22 before the effective date of this Act apply only to a proceeding for  
23 modification or enforcement that is commenced on or after the  
24 effective date of this Act. A proceeding for modification or  
25 enforcement that is commenced before the effective date of this Act  
26 is governed by the law in effect on the date the proceeding was  
27 commenced, and the former law is continued in effect for that



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1    purpose.

2           SECTION 31.   This Act takes effect September 1, 2007.